IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6121 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ARVINDBHAI HIRABHAI THAKKAR - Petitioner(s)
Versus
STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :
MR DR BHATT for Petitioner(s) : 1,
MS MANISHA L. SHAH for Respondent(s) : 1 - 2, 4,
MR HS MUNSHAW for Respondent(s) : 3,
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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 27/03/2006

ORAL JUDGMENT

1.In the present petition, the petitioner has prayed for being granted interest on the delayed payment of pension, gratuity and commuted value of pension.

2. The petitioner who retired from the Government service with effect from 30th November 1999 was not paid his retiral dues for some time after his retirement. He, therefore, filed Special Civil Application No.11979 of 2000. The said petition was disposed of by the learned single Judge of this Court by the order dated 22nd November 2000. The case of the petitioner for release of retiral benefits was directed to be considered. It appears that before his retirement, there was a departmental inquiry which resulted into his reduction in pay-scale by three stages. Eventually, his pension and gratuity came to be paid on or around March 2001. He has, therefore, prayed for interest on the delayed payment of his retiral benefits.

3. The respondent appeared and filed affidavit in reply in response to the notice issued by this Court. In the affidavit in reply dated 18th December, 2001, it is stated that gratuity has been paid with 12 per cent interest and accordingly for a period 1 year and 4 days, interest of Rs.34,554/- has been paid to the petitioner. With respect to the delayed payment of pension, it is stated that a preliminary inquiry was pending against the petitioner and therefore, he is not entitled to interest on the delayed payment of

pension.

4. With respect to gratuity, the same has been paid with interest. Therefore, there is no further necessity to direct payment of interest on the gratuity paid to the petitioner. With respect to delayed payment of pension, I find that the respondent cannot escape the liability to pay interest thereon. The preliminary inquiry pending against the petitioner at the time of his retirement eventually did not materialize into fullfledged departmental inquiry by issuance of a charge-sheet and passing of final penal order. In that view of the matter, respondents shall have to carry the burden of interest on the delayed payment of pension. It is, therefore, directed that the delayed payment of pension shall carry 8 per cent simple interest from the date when the same became due and payable till its actual payment.

5. Since the pension is being paid with interest and since the petitioner was allowed to commute pension, he would have enjoyed full component of post retiral pension and therefore I do not think it appropriate to grant any interest on the commuted value of pension even if the same is paid belatedly to the petitioner. Any such direction would amount to granting double interest since the petitioner is already getting interest on

the delayed payment of pension.

6. In the result, the petition is allowed to above extent by directing respondents to pay 8 per cent simple interest on the pensionary benefits paid to the petitioner late i.e. delayed payment of pension would carry 8 per cent simple interst from the date it fell due till its actual payment. This shall be done within a period of two months from the date of receipt of a copy of this order. Rule is made absolute to the above extent with no order as to costs.

Direct service is permitted.

(Akil Kureshi, J.)

(vjn)